

Internal Revenue Service

Number: **201416002**

Release Date: 4/18/2014

Index Number: 351.00-00, 355.00-00,
368.00-00, 833.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B04

PLR-126664-13

Date:

December 23, 2013

LEGEND

Distributing =

Controlled =

Mutual Holding =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Foundation =

Business A =

Business B =

Business C =

Segment 1 =

Segment 2 =

State A =

Dear :

This letter responds to your June 7, 2013 letter requesting rulings on certain U.S. federal income tax consequences of a series of proposed restructuring transactions (collectively, the “Proposed Transactions”). The information provided in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the distribution occurring as part of the Proposed Transactions will (i) satisfy the business purpose requirement of § 1.355-2(b), (ii) is being used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)), or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see § 355(e) and § 1.355-7).

SUMMARY OF FACTS

Distributing is a not-for-profit mutual insurance company organized under the laws of State A and is the common parent of an affiliated group of corporations that file a consolidated U.S. federal income tax return (the “Distributing Group”).

As a mutual insurance company, Distributing has no capital stock and all of its equity is held by its policyholders (“Policyholders”). Each Policyholder’s membership interest comes with (1) the right to receive policy benefits, which consist of health insurance coverage; (2) the right to vote in the election of directors and on other corporate matters; (3) the right to receive distributions of assets from Distributing in the event of the ultimate dissolution or liquidation of Distributing; and (4) the right to participate, if eligible, under State A law in the event of a demutualization.

Distributing holds all of the membership interests in Foundation. Foundation is a § 501(c)(3) tax-exempt corporation organized under the laws of State A. Distributing wholly owns Sub 1, Sub 2, and Sub 3. Each of Sub 1, Sub 2 and Sub 3, are holding companies organized under the laws of State A and are non-regulated members of the Distributing Group. Sub 1 wholly owns Sub 4. Sub 4 is a corporation organized under the laws of State A and is a regulated member of the Distributing Group.

Distributing and its subsidiaries are engaged in Business A, Business B, and Business C. Business A includes Segment 1 and Segment 2. For each of the past five years, Distributing has been directly engaged in Segment 1 and Sub 4 has been directly engaged in Segment 2. Financial information has been submitted indicating that Segment 1 and Segment 2 each has had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Following the Proposed Transactions, Sub 4 will be a member of the Controlled separate affiliated group within the meaning of § 355(b)(3)(B).

Management believes reorganizing Distributing from a not-for-profit mutual insurance company to a stock insurance company is necessary to achieve the following corporate business purposes: (1) reduce the regulatory burdens on certain entities currently owned by Distributing; (2) enable the more efficient deployment of capital within the mutual holding company structure; and (3) provide a platform for business expansion beyond what is currently permitted by Distributing’s charter and license.

PROPOSED TRANSACTIONS

For what are represented to be valid business purposes, Distributing has proposed the following steps, which will occur pursuant to an overall plan of reorganization:

- (i) Mutual Holding will be formed as a mutual insurance holding company pursuant to State A law.

- (ii) Distributing will reorganize into a State A stock insurance company by amending and restating its articles of incorporation and bylaws to authorize the issuance of common stock.
- (iii) Distributing will issue all of its common stock to Mutual Holding.
- (iv) The membership interests of the Policyholders of Distributing will become membership interests in Mutual Holding, and their membership interests in Distributing will be extinguished, resulting in the Policyholders becoming members of Mutual Holding (collectively, steps (ii) through (iv), which will occur simultaneously under State A law, the "Distributing Reorganization").
- (v) Distributing will contribute all of the issued and outstanding common stock in each of Sub 1, Sub 2, and Sub 3 (collectively, the "Contributed Subsidiaries") and certain real estate, property and equipment, stocks, and bonds (such assets collectively, the "Contributed Subsidiary Assets") to Controlled, a newly formed State A corporation (the "Contribution").
- (vi) Distributing will distribute all of the issued and outstanding common stock of Controlled to Mutual Holding (the "Distribution").

Following the Proposed Transactions, Policyholders will hold all of the membership interests in Mutual Holding. Mutual Holding will own all the common stock of Distributing and all of the common stock of Controlled. Mutual Holding and Distributing will be members of Foundation.

REPRESENTATIONS

The following representations are made with regard to the Proposed Transactions:

A. The Distributing Reorganization

The Recapitalization and F Reorganization

- (a) The Distributing Reorganization will be carried out for following corporate business purposes: 1) to reduce the regulatory burdens on certain entities currently owned by Distributing; 2) to enable the more efficient deployment of capital within the mutual holding company structure; and 3) to provide a platform for business expansion beyond what is currently permitted by Distributing's charter and license.
- (b) Each party will pay its own expenses, if any, incurred in connection with the Proposed Transactions.

- (c) The Proposed Transactions, including the Distributing Reorganization, will occur substantially contemporaneously under a plan agreed upon before the Proposed Transactions.
- (d) The exchanges contemplated by the Distributing Reorganization will occur on its effective date.
- (e) The fair market value of the Distributing common stock received by each Policyholder in the Distributing Reorganization will be approximately equal to the fair market value of the Distributing membership interests surrendered in the exchange.
- (f) The Distributing Reorganization is not part of a plan to periodically increase the proportionate interest of any person in the assets or earnings and profits of Distributing.
- (g) No fractional shares or interests in Distributing will be issued or exchanged in the Distributing Reorganization.
- (h) The fair market value of the Distributing common stock deemed to be received by each Policyholder in the Distributing Reorganization will be approximately equal to the fair market value of the Distributing membership interests surrendered in the constructive exchange.
- (i) Immediately after the Distributing Reorganization, Distributing will continue to own substantially all of the assets and liabilities that it held prior to the Distributing Reorganization.
- (j) At the time of the Distributing Reorganization, Distributing will not be under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (k) None of stock to be exchanged in the Distributing Reorganization will be “section 306 stock” within the meaning of § 306(c).
- (l) Immediately after the Distributing Reorganization, Distributing will continue in the same business that Distributing conducted before the Distributing Reorganization.
- (m) After the Distributing Reorganization, Distributing will be the same legal entity under State A law that existed immediately prior to the Distributing Reorganization.

The B Reorganization

- (n) The Distributing Reorganization will be carried out for valid corporate business purposes.
- (o) Each party to the steps comprising the Proposed Transactions, including the Distributing Reorganization, will pay their own expenses, if any, incurred.
- (p) All material steps that will comprise the Proposed Transactions, including the Distributing Reorganization, will occur substantially contemporaneously under an overall plan of reorganization agreed upon before the effective date of the Proposed Transactions in which the rights of the parties are defined.
- (q) At the time of the Distributing Reorganization, Distributing will not have outstanding stock options, warrants, convertible securities, or any other right that is convertible into any class of stock or securities of Distributing.
- (r) Except as otherwise provided in the Proposed Transactions, neither Mutual Holding nor Distributing has any intention to redeem or otherwise acquire any of its membership interests or the shares of its stock, issued in the Distributing Reorganization.
- (s) Mutual Holding will be newly formed as part of the Proposed Transactions and does not own, directly or indirectly, nor has it owned during the past five years, any stock or membership interests in Distributing.
- (t) Mutual Holding will receive Distributing stock that will be approximately equal to the fair market value of the Mutual Holding membership interests issued to the Policyholders.
- (u) The Policyholders will receive Mutual Holding membership interests, in place of their former Distributing membership interests, in an amount that will be approximately equal in fair market value.
- (v) Mutual Holding has no current plan or intention to liquidate Distributing; to merge Distributing into another corporation; to cause Distributing to sell or otherwise dispose of any of its assets, except for dispositions in the ordinary course of business; or to sell or otherwise dispose of any of the Distributing stock acquired in the Distributing Reorganization, except for transfers described in § 368(a)(2)(C) and § 1.368-2(k).
- (w) None of the stock to be transferred pursuant to the Distributing Reorganization is “section 306 stock” within the meaning of § 306(c).
- (x) Distributing has no plan or intention to issue additional shares of its stock that would result in Mutual Holding losing control of Distributing within the meaning of § 368(c).

(y) No property other than membership interests in Distributing, stock in Distributing, and membership interests in Mutual Holding will be involved in the Distributing Reorganization. All of the stock issued by Distributing will be common stock. All of the membership interests in each of Distributing (prior to the Distributing Reorganization) and Mutual Holding will constitute proprietary interests treated as voting stock.

(z) Mutual Holding will acquire Distributing stock solely in exchange for Mutual Holding membership interests. For purposes of this representation, Distributing stock redeemed for cash or other property, if any, furnished by Mutual Holding or an affiliate of Mutual Holding will be considered acquired by Mutual Holding. Furthermore, no liabilities of Distributing or the Policyholders will be assumed by Mutual Holding, nor will any of the Distributing stock that will be acquired by Mutual Holding be subject to any liabilities.

(aa) Following the Distributing Reorganization, Distributing will continue to conduct its historic business or it will use a significant portion of its historic business assets in a business.

(bb) Neither Mutual Holding nor Distributing will be an investment company immediately after the Distributing Reorganization, within the meaning of §§ 368(a)(2)(F)(iii) and (iv).

(cc) Neither Mutual Holding nor Distributing is under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(dd) On the date of the Distributing Reorganization, the fair market value of the assets of Distributing will exceed the sum of its liabilities plus the liabilities, if any, to which such assets are subject.

The § 351 Exchange

(ee) No stock or securities will be issued for services rendered to or for the benefit of Mutual Holding in connection with the Distributing Reorganization.

(ff) The Distributing Reorganization will not be the result of a solicitation by a promoter, broker, or investment house.

(gg) The Policyholders will not retain any rights in the Distributing stock deemed transferred to Mutual Holding.

(hh) There will be no indebtedness between the Policyholders and Mutual Holding and there will be no indebtedness created in favor of the Policyholders as a result of the Distributing Reorganization.

(ii) Mutual Holding has no intention to redeem or otherwise acquire any of its membership interests issued in the Distributing Reorganization.

(jj) The Policyholders will be in control of Mutual Holding immediately after the Distributing Reorganization within the meaning of § 368(c).

(kk) The total fair market value of the assets transferred to Mutual Holding will exceed the sum of: (i) the amount of liabilities to be assumed (within the meaning of § 357(d)) by Mutual Holding in connection with the Distributing Reorganization, (ii) the amount of any liabilities owed to Mutual Holding by the Policyholders that will be discharged or extinguished in connection with the exchange, and (iii) the amount of money or the fair market value of any other property (other than stock permitted to be received under § 351(a) without recognition of gain) to be received by the Policyholders in the exchange. The fair market value of the assets of Mutual Holding will exceed the amount of its liabilities immediately after the Distributing Reorganization.

(ll) Mutual Holding will remain in existence and retain controlling ownership of the stock of Distributing.

(mm) The adjusted basis and the fair market value of the Distributing stock deemed to be transferred by the Policyholders to Mutual Holding will, in each instance, equal or exceed the sum of the liabilities, if any, to be assumed by Mutual Holding (within the meaning of § 357(d)), plus liabilities, if any, to which the deemed transferred Distributing stock is subject.

(nn) The liabilities of the Policyholders, to be assumed (within the meaning of § 357(d)) by Mutual Holding, if any, were incurred in the ordinary course of its business and are associated with the Distributing stock deemed to be transferred.

(oo) The adjusted basis of the Distributing membership interests in the hands of the Policyholders will not exceed the fair market value of such membership interests at the time of the Distributing Reorganization.

(pp) There is no plan or intention by Mutual Holding to dispose of the property transferred to it pursuant to the Distributing Reorganization other than in the normal course of business operations.

(qq) Mutual Holding will not be a personal service corporation within the meaning of § 269A.

(rr) The Policyholders are not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A) and the membership interests

received in the exchange will not be used to satisfy the indebtedness of the Policyholders.

B. The Contribution and Distribution

(ss) The Contribution and Distribution will be carried out for the following corporate business purposes: 1) to reduce the regulatory burdens on certain entities currently owned by Distributing; 2) to enable the more efficient deployment of capital within the mutual holding company structure; and 3) to provide a platform for business expansion beyond what is currently permitted by Distributing's charter and license. The Distribution will be motivated in whole or substantial part by these corporate business purposes.

(tt) Each party to the steps comprising the Proposed Transactions, including the Contribution and the Distribution, will pay their own expenses, if any, incurred.

(uu) All material steps that will comprise the Proposed Transactions, including the Contribution and the Distribution, will occur substantially contemporaneously under an overall plan of reorganization agreed upon before the effective date of the Proposed Transactions in which the rights of the parties are defined.

(vv) The indebtedness, if any, owed by Controlled to Distributing after the Distribution will not constitute stock or securities.

(ww) No part of the consideration to be distributed by Distributing in the Distribution will be received by Mutual Holding as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.

(xx) The five years of financial information submitted for Segment 1 conducted by Distributing is representative of the present operations and there have been no substantial operational changes since the date of the last financial statements submitted.

(yy) The five years of financial information submitted for Segment 2 that will be conducted by Controlled, through Sub 4, is representative of the present operations and there have been no substantial operational changes since the date of the last financial statements submitted.

(zz) Following the Distribution, Distributing will continue the active conduct of Segment 1 independently and with its employees.

(aaa) Following the Distribution, Controlled, through Sub 4, will continue the active conduct of Segment 2 with employees of its affiliate, Distributing.

(bbb) The Distribution will not be used principally as a device for distributing the earnings and profits of Distributing or Controlled or both.

(ccc) The total adjusted bases and the fair market value of the assets transferred to Controlled by Distributing in the Contribution will equal or exceed the sum of (i) the total liabilities, if any, assumed (within the meaning of § 357(d)) by Controlled, and (ii) the total amount of any money and the fair market value of any other property (within the meaning of § 361(b)) received by Distributing and transferred to its creditors in connection with the Contribution.

(ddd) The total fair market value of the assets that will be transferred to Controlled in the Contribution will exceed the sum of (i) the amount of any liabilities assumed (as determined under § 357(d)) by Controlled in connection with the Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing that are discharged or extinguished in connection with the Contribution, and (iii) the amount of any money and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing in the Contribution. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.

(eee) No inter-corporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution, except as may arise in the ordinary course of business.

(fff) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (See §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account, if any, with respect to the stock of Controlled that is required to be taken into account by § 1.1502-19 will be included in income immediately before the Distribution.

(ggg) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing stock or membership interests that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(hhh) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled stock that was either (i) acquired by purchase (as defined in

§ 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the Distribution or (ii) attributable to distributions on Distributing's stock or membership interests that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(iii) Payments made in connection with all continuing transactions, if any, following the Proposed Transactions, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(jjj) Neither Distributing nor Controlled will be an investment company within the meaning of §§ 368(a)(2)(F)(iii) and (iv).

(kkk) The Distribution will not be part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50 percent or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor to any such corporation).

(lll) Immediately after the Distribution, (taking into account § 355(g)(4)), no party to the Proposed Transactions will be a disqualified investment corporation (within the meaning of § 355(g)(2)).

(mmm) Distributing did not acquire either Segment 1 or control of an entity conducting Segment 1 during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized under proposed § 1.355-3) in whole or in part.

(nnn) Controlled did not acquire either Segment 2 that it conducts through Sub 4 or control of an entity conducting Segment 2 during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized (or treated as recognized under proposed § 1.355-3) in whole or in part.

C. Section 833

(ooo) Distributing was exempt from tax for its last taxable year beginning before January 1, 1987.

(ppp) No material change has occurred in the operations of Distributing or in its structure after August 16, 1987, through the present.

(qqq) Distributing qualifies as an existing Blue Cross or Blue Shield organization within the meaning of § 833(c)(2).

(rrr) Mutual Holding does not qualify as an existing Blue Cross or Blue Shield organization within the meaning of § 833(c)(2).

(sss) The Distributing insurance policies will continue as the contractual obligations of Distributing, and the members of Distributing will continue to be Policyholders of Distributing.

(ttt) The Proposed Transactions will not cause Distributing to cease insuring the health risks of its customers.

RULINGS

Based solely upon the information submitted and the representations made, we rule as follows on the Proposed Transactions:

A. The Distributing Reorganization

(1) For federal income tax purposes, the Proposed Transactions will be treated as if the following steps occurred in the following order: (i) Distributing converted to a stock insurance company, with the Policyholders exchanging their membership interests in Distributing for Distributing stock; and (ii) the Policyholders exchanged their Distributing stock for voting membership interests in Mutual Holding.

(2) The Distributing Reorganization will constitute a reorganization under §§ 368(a)(1)(E) and 368(a)(1)(F). Distributing will be a “party to a reorganization” within the meaning of § 368(b).

(3) No gain or loss will be recognized by Distributing on the issuance of its stock (§ 1032(a)).

(4) No gain or loss will be recognized by the Policyholders on the deemed exchange of their membership interests for Distributing stock in the Distributing Reorganization (§ 354).

(5) The Policyholders’ deemed exchange of their Distributing stock for voting membership interests in Mutual Holding will be a reorganization under § 368(a)(1)(B) and a § 351 exchange. Distributing and Mutual Holding will each be “parties to the reorganization” under § 368(b).

(6) The Policyholders will not recognize gain or loss upon their receipt of Mutual Holding membership interests in deemed exchange for Distributing stock (§ 354).

(7) Mutual Holding will not recognize gain or loss upon its receipt of Distributing stock solely in deemed exchange for Mutual Holding membership interests (§ 1032).

(8) The affiliated group of which Distributing was the common parent immediately before the Distributing Reorganization will remain in existence with Mutual Holding as the new common parent (Rev. Rul. 82-152, 1982-2 C.B. 205).

B. The Contribution and Distribution

(9) The Contribution, followed by the Distribution, will qualify as a reorganization within the meaning of § 368(a)(1)(D). Each of Distributing and Controlled will be “a party to a reorganization” within the meaning of § 368(b).

(10) Distributing will not recognize any gain or loss pursuant to the Contribution (§ 361(a)).

(11) Controlled will not recognize any gain or loss pursuant to the Contribution (§ 1032(a)).

(12) Controlled’s basis in each asset received from Distributing pursuant to the Contribution will be the same as the basis of that asset in the hands of Distributing immediately before the Contribution (§ 362(b)).

(13) Controlled’s holding period in each asset received from Distributing pursuant to the Contribution will include the period during which Distributing held that asset (§ 1223(2)).

(14) Distributing will not recognize any gain or loss upon the distribution of Controlled stock in the Distribution (§ 361(c)).

(15) Mutual Holding will not recognize any gain or loss (and no amount will otherwise be includible in Mutual Holding’s income) on the receipt of Controlled’s stock in the Distribution (§ 355(a)(1)).

(16) The basis of the Distributing stock and the Controlled stock in the hands of Mutual Holding immediately after the Distribution will be the same as Mutual Holding’s basis in the Distributing stock held immediately before the Distribution, allocated in the manner described in § 1.358-2, in accordance with § 358(a) through (c).

(17) The holding period of the Controlled stock received by Mutual Holding in the Distribution will include the holding period of the Distributing stock with respect to which the Distribution was made, provided that the Distributing stock was held as a capital asset on the date of the Distribution (§ 1223(1)).

(18) Earnings and profits of Distributing, if any, will be allocated between Distributing and Controlled in accordance with § 1.312-10.

C. Section 833

(19) The Proposed Transactions will not be treated as a material change in the operations of Distributing or in its structure within the meaning of § 833(c)(2)(C).

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Proposed Transactions under other provision of the Internal Revenue Code ("Code") or the regulations, or the tax treatment of any conditions existing the time of, or effects resulting from, the Proposed Transactions that is not specifically covered by the above rulings. In particular, except as so provided, no opinion is expressed or implied regarding:

- (i) whether the Distribution satisfies the business purpose requirement of § 1.355-2(b);
- (ii) whether the Distribution is being used principally as a device for the distribution of the earnings and profits Distributing, Controlled or other applicable distributing corporation or any combination thereof (see § 355(a)(1)(B) and § 1.355-2(d));
- (iii) whether the Distribution is part of a plan (or series of related transactions) pursuant to which one or more persons will acquired directly or indirectly stock representing a 50-percent or greater interest in Distributing or Controlled (see § 355(e) and § 1.355-7);
- (iv) whether any other transaction should not be treated as a material change in operations or structure under § 833(c)(2)(C), including the following: 1) the issuance or distribution of stock by Mutual Holding, Distributing, or Controlled, or any other entity thereby controlled other than that described herein, or 2) the acquisition of any additional line of business or entity; and
- (v) whether any loss incurred in the Proposed Transactions is disallowed pursuant to § 267(a).

PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

In accordance with the power of attorney on file with this office, a copy of this ruling letter is being sent to your authorized representatives.

Sincerely,

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
Office of Associate Chief Counsel
(Corporate)

cc: